132. (New) A method according to Claim 130, wherein the receiver effects the selection,

wherein the receiver comprises a signal strength detector that detects the signal strength,

wherein the signal strength is determined in accordance with an energy-per-bit to noise ratio,

wherein the receiver transmits to the transmitter an indication as to which of the first satellite communication channel and the second satellite communication channel has been selected,

wherein the transmitter comprises a load factor determination unit that is configured to determine the load factor of the first satellite communication channel and the load factor of the second satellite communication channel,

wherein the transmitter transmits the load factor of the first satellite communication channel and the load factor of the second satellite communication channel, as determined by said load factor determination unit, to the receiver.--

REMARKS

Reconsideration and allowance of the subject application are respectfully solicited.

Claims 78 through 132 are pending, with Claims 78, 99, 127, and 130 being independent. Claims 2 through 11, 16 through 25, 28, 29, 33 through 43, 46 through 67, and 69 through 77 have been cancelled without prejudice. Claims 78 through 132 have been added.

Claims 2 through 11, 16 through 25, 28, 29, 33 through 43, and 46 through 75 were variously rejected under 35 U.S.C. §§ 102 and 103 over U.S. Patent Nos. 6,215,484 (Freeman, et al.), 5,666,653 (Ahl), 4,355,411 (Reudink, et al.), 6,334,045 (Green, Sr., et al.), and Official Notice. All rejections are respectfully traversed.

Claims 78, 99, 127, and 130 variously recite, inter alia, that when the second satellite communication channel is selected and signal strength is below a predetermined value, then the first satellite communication channel is selected, and when the first satellite communication channel is selected and (i) signal strength is above a predetermined value and (ii) the second satellite communication channel has a load factor lower than that of the first satellite communication channel, then the second satellite communication channel is selected, wherein the first satellite communication channel has a bit rate lower than (Claims 78 and 127) or a power level higher than (Claim 99 and 130) that of the second satellite communication channel.

However, Applicant respectfully submits that none of Freeman, et al., Ahl, Reudink, et al., Green, Sr., et al., and Official Notice, assuming, arguendo, that the documents could be combined, discloses or suggests at least the above-discussed claimed features as recited, inter alia, in Claims 78, 99, 127, and 130. Further in this regard, the Official Action relies upon Ahl for its reference to "modular dynamic speed rates". Applicant notes that Reudink, et al. shows, e.g., (1) that the mobile monitors the S/I ratio and when it exceeds a level, the mobile notifies the base station, and controller 56 chooses "an idle secondary channel in the appropriate frequency section f_1, f_2, or f_3" (col. 10, lines 48-63), and (2) S/I detector 70 is used to detect interference above a predetermined level, and when exceeded detector 70 notifies controller 56 and

"transmissions between the mobile and base station are switched to another base station of a cell which has a stronger signal at the mobile or to an appropriate secondary channel as described hereinabove when this base station has the strongest signal at the mobile" (e.g., col. 11, lines 12-22). However, Applicant respectfully submits that neither the foregoing nor the remainder of these documents provides either a description or suggestion of the above-discussed claimed features. It is further respectfully submitted that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at the above-discussed claimed features. Further, the Official Notice is respectfully traversed in the absence of a cited reference. See MPEP 2144.03 (see, e.g., page 2100-129, 2nd paragraph, 3rd sentence ("If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position")).

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from independent claims discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

REQUEST FOR INTERVIEW

If any questions remain, Applicant respectfully requests that the Examiner contact Applicant's representative, John T. Whelan, at (301) 428-7172.
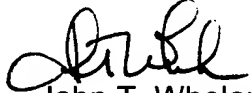
CONCLUSION

Applicant submits that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicant's undersigned attorney may be reached at (301) 428-7172.

All correspondence should continue to be directed to our below-listed address.
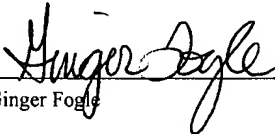
Respectfully submitted,

John T. Whelan 10-11-02
Attorney for Applicant
Registration No. 32,448

HUGHES ELECTRONICS CORPORATION
Bldg. 001, M/S-A109
P.O. Box 956
El Segundo, CA 90245-0956
(301) 428-7172

DSG\llp
DC_MAIN 110490

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231 on ____Oct. 11,_____, 2002.

Ginger Fogle

DC_MAIN 110490 v 1